IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 21897 of 2007(F)

PETITIONER:

P.K.SASI,
POTTAMPLACKAL, AVOLI P.O., MUVATTUPUZHA,
ERNAKULAM. (STORE SUPERINTENDENT, HEALTH DEPT.).

BY ADV. SRI.BIJI MATHEW

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE PRINCIPAL SECRETARY, HEALTH DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICES AND
CONVENOR OF THE DEPARTMENTAL PROMOTION COMMITTEE
(LOWER), HEALTH DEPARTMENT, DIRECTORATE OF HEALTH
SERVICE, THIRUVANANTHAPURAM.

3. THE DISTRICT MEDICAL OFFICER,
HEALTH DEPARTMENT, ERNAKULAM.

4. THE ACCOUNTANT GENERAL,
OFFICE OF THE ACCOUNTANT GENERAL (A & E),
KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 21897/2007 F

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT DT. 30/08/05 IN WPC NO. 25653/2005 OF THIS COURT.

EXT.P2. COPY OF THE GO RT NO. 2776/2005/H&FWD DT. 29/09/05.

EXT.P3. COPY OF THE REPRESENTATION DT. 24/10/2005 SUBMITTED BY THE PETITIONER BEFORE THE R2.

EXT.P4. COPY OF THE GRATUITY PAYMENT ORDER NO. P. 15/BT/G/51591512 DT. 27/09/05.

EXT.P5. COPY OF THE REPRESENTATION DT. 30/1/2006 BY THE PETITIONER BEFORE THE R3.

EXT.P6. COPY OF THE GRATUITY PAYMENT ORDER NO. P15/BT/G-51591512 DT. 20/10/06.

EXT.P7. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE R2 DT. 13/4/2007.

EXT.P7A. COPY OF THE STATEMENT OF MONETARY LOSS OCCURRED ON BELATED PROMOTION OF THE PETITIONER.

RESPONDENT'S EXHIBITS **NIL.**

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V.GIRI, J.

W.P.(C).No.21897 of 2007 F

Dated this the 4th day of October, 2007.

JUDGMENT

The petitioner retired from the Health Services Department on 30.9.2005. While in service, he had aspired for promotion to the post of Store Superintendent, when he was working as a Pharmacist Store Keeper. According to him, his juniors were promoted ahead of him. He, therefore, approached this court with W.P.(C)No.25653/05, which was disposed of under Ext.P1 judgment, directing the Director of Health Services to look into Ext.P8 representation and pass appropriate orders within three weeks from the date of receipt of a copy of that judgment.

2. Apparently, final orders in terms of Ext.P1 judgment is yet to be passed, though in the meanwhile, as per Ext.P2, the petitioner was provisionally promoted as Store Superintendent under Rule 9(a)(i) of the Kerala State and Subordinate Services Rules. It was apparently keeping in mind that the petitioner was to retire on 30.9.2005.

3. The present grievance of the petitioner is that his non-liability certificate has not been forwarded to the Head of the Department and therefore, the Death cum Retirement Gratuity due

to him has not been disbursed so far. The Accountant General has issued Exts.P4 and P6 gratuity payment orders. The petitioner contends that if he was given promotion to the post of Store Superintendent with reference to the date on which his juniors were promoted, then he would be entitled to the revision in the salary that he has actually drawn and the same would have been reflected in the gratuity. But the petitioner's claim for promotion to the post of Store Superintendent, as directed to be considered in Ext.P1 judgment, has not been considered so far, contended the petitioner.

4. Mr.Nandakumar, Senior Government Pleader submits, on instructions, that the non-liability certificate has already been forwarded to the Director of Health Services and that the Death cum Retirement Gratuity due as per Exts.P4 and P6 will be disbursed to the petitioner without any further delay.

5. After hearing learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed of in the following terms:

(a) The 2nd respondent shall issue the non-liability certificate to the petitioner within a period of one month from the date of receipt of a copy of this judgment.

(b) On receipt of the same, the petitioner shall produce the same before the Sub Treasury Officer, Muvattupuzha, who shall disburse the Death cum Retirement Gratuity due to the petitioner, without any further delay.

(c) The 2nd respondent shall consider the claim of the petitioner for promotion to the post of Store Superintendent from the date on which his juniors have been promoted as directed by this court in Ext.P1 judgment within three months form the date of receipt of a copy of this judgment.

(d) If the petitioner's claim is accepted, then the 3rd respondent shall also consider the grant of such consequential benefits as are due to the petitioner in this regard.

Sd/-

(V.GIRI)

JUDGE

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